

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DANIEL P. IRWIN,	§
	§
Defendant Below-	§ No. 98, 2009
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Kent County
	§ Cr. ID Nos. 0409015984 and
Plaintiff Below-	§ 0502001603
Appellee.	§

Submitted: April 13, 2009

Decided: May 11, 2009

Before **HOLLAND, BERGER, and JACOBS**, Justices.

ORDER

This 11th day of May 2009, upon consideration of appellant's opening brief and the State's motion to affirm, it appears to the Court that:

(1) The appellant, Daniel Irwin, filed this appeal from the Superior Court's denial of his motion for credit for time previously served. The State has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Irwin's opening brief that the appeal is without merit. We agree and affirm.

(2) The record reflects that Irwin was arrested on September 20, 2004 on a charge of third degree rape. He was held in custody in lieu of bail. Ultimately, he pled guilty on June 16, 2005 to two counts of third degree rape, charged under two different indictments. The Superior Court sentenced him on September 29,

2005 to a total period of thirty years at Level V imprisonment to be suspended after serving seven years for three years at decreasing levels of supervision. Irwin did not appeal.

(3) On December 8, 2008, Irwin filed a motion seeking credit for time previously served. Irwin argued that he was entitled to be credited with the time he served in prison in lieu of bail following his September 2004 arrest until his September 2005 sentencing. The Superior Court denied Irwin's motion. This appeal followed.

(4) After a review of the record, we find it manifest that the Superior Court's denial of Irwin's motion must be affirmed. It is clear from the Superior Court's September 29, 2005 sentencing order that Irwin was given credit for all of the time he served in prison prior to his sentencing. The sentencing order specifically provides that the effective date of Irwin's sentence is September 20, 2004, the date of his arrest. Accordingly, Irwin received credit for all time previously served. There is no merit to his appeal.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

Carolyn Berger
Justice